

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TYLO JEROME FELIX, JR.,

Plaintiff,

v.

C. CAZORES, et al.,

Defendants.

Case No.: 1:24-cv-00332-JLT-SKO

**ORDER GRANTING DEFENDANTS'
MOTION TO MODIFY THE DISCOVERY
AND SCHEDULING ORDER**

(Doc. 19)

Plaintiff Tylo Jerome Felix, Jr., is proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff's constitutional claims against Defendants Cazores, Smotherman, Diaz, Velasquez, and Arreazola.

I. INTRODUCTION

The Court issued its Discovery and Scheduling Order on August 23, 2024. (Doc. 17.) The deadline for the filing of a motion for summary judgment based upon a failure to exhaust administrative remedies was set for November 23, 2024. (*Id.*)

On November 14, 2024, Defendants filed a "Motion to Modify Scheduling Order to Extend Deadline to File Motion Challenging Exhaustion of Administrative Remedies." (Doc. 19.)

II. DISCUSSION

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, a scheduling order "may be modified only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4). This good cause standard "primarily considers the diligence of the party seeking the amendment." *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). The court may modify

the scheduling order “if it cannot reasonably be met despite the diligence of the party seeking the extension.” *Id.* If the party was not diligent, the inquiry should end. *Id.*

Defendants move for a 30-day extension of the deadline for filing a motion for summary judgment based upon a failure to exhaust administrative remedies. (Doc. 19.) The motion is supported by the Declaration of Janet Chen, a Supervising Deputy Attorney General at the California Attorney General’s Office. (*Id.* at ¶ 1.)

Ms. Chen states that on September 11, 2024, Deputy Attorney General Ravpreet Bhangoo unexpectedly went on medical leave and was expected to return on November 6, 2024. (*Id.*, ¶ 2.) Ms. Bhangoo’s medical leave has now been extended though January 2025. (*Id.*) Either Ms. Chen or another attorney in her office will need additional time to further investigate the defense and prepare any motion for summary judgment based upon a failure to exhaust administrative remedies. (*Id.*, ¶ 3.) A declaration from the Chief of the Office of Appeals will be necessary to support the motion, “and the turnaround time for obtaining such a declaration is three weeks.” (*Id.*) Due to Plaintiff’s incarceration and pro se status, a stipulation could not be obtained. (*Id.*, ¶ 5.)

Here, Defendants have established good cause for an extension of the deadline for the filing of a motion for summary judgment based upon a failure to exhaust administrative remedies. The deadline will be extended as requested.

III. CONCLUSION AND ORDER

Accordingly, and for good cause shown, the Court **ORDERS** that:

1. Defendants motion to modify the scheduling order (Doc. 19) is **GRANTED**; and
2. The Discovery and Scheduling Order is **MODIFIED** to extend the deadline for filing a motion for summary judgment based upon a failure to exhaust administrative remedies from November 23, 2024, to **December 23, 2024**.

IT IS SO ORDERED.

Dated: **November 20, 2024**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE